



6712-01

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0600 and 3060-0995]

Information Collections Being Reviewed by the Federal Communications Commission

Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 USC 3501-3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov. Include in the comments the Title as shown in the "Supplementary

Information” section below.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0600.

Title: Application to Participate in an FCC Auction, FCC Form 175.

Form Number: FCC Form 175.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents and Responses: 500 respondents and 500 responses.

Estimated Time Per Response: 90 minutes.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for the currently approved information collection is contained in sections 154(i) and 309(j)(5) of the Communications Act, as amended, 47 U.S.C. sections 4(i), 309(j)(5), and sections 1.2105, 1.2110, 1.2112 of the Commission’s rules, 47 CFR 1.2105, 1.2110, 1.2112. Statutory authority for the revised information collection is contained in sections 154(i) and 309(j)(5) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 309(j)(5), and sections 1.2105, 1.2110, 1.2112 of the Commission’s rules, as amended, 47 CFR 1.2105, 1.2110, 1.2112.

Estimated Total Annual Burden: 750 hours.

Total Annual Costs: None.

Nature and Extent of Confidentiality: Information collected on FCC Form 175 is made available for public inspection, and the Commission is not requesting that respondents submit confidential information on FCC Form 175. Respondents seeking to have information collected on FCC Form 175 withheld from public inspection may request confidential treatment of such

information pursuant to section 0.459 of the Commission's rules, 47 CFR section 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: A request for extension of this information collection (no change in requirements) will be submitted to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three year clearance from OMB. On February 22, 2012, the President signed the Spectrum Act, which, among other things, authorized the Commission to conduct incentive auctions, and directed that the Commission use this innovative tool for an incentive auction of broadcast television spectrum to help meet the Nation's growing spectrum needs. See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, sections 6402, 6403, 125 Stat. 156 (2012) (Spectrum Act). The Commission's broadcast incentive auction (BIA) will have three main components: (1) a reverse auction in which broadcast television licensees will submit bids to voluntarily relinquish their spectrum usage rights in exchange for defined shares of proceeds from the forward auction; (2) a repacking of the broadcast television bands; and (3) a forward auction of initial licenses for flexible use of the newly available spectrum.

The Commission is revising the currently approved information collection on FCC Form 175 to implement new collection requirements that are the result of (1) various Commission actions in which the Commission adopted general rules and procedures to govern the BIA, including rules applicable to applicants seeking to participate in the forward auction component of the BIA and, (2) the Commission's adoption of new and modified competitive bidding rules and requirements in the Updating Part 1 Report and Order, which will apply to applicants seeking to participate in a Commission auction, including the forward auction component of the BIA.

The Commission's auction rules and related requirements are designed to ensure that the competitive bidding process is limited to serious qualified applicants, deter possible abuse of the bidding and licensing process, and enhance the use of competitive bidding to assign Commission licenses in furtherance of the public interest. The information collected on FCC Form 175 is used

by the Commission to determine if an applicant is legally, technically, and financially qualified to participate in a Commission auction. Additionally, if an applicant applies for status as a particular type of auction participant pursuant to Commission rules, the Commission uses information collected on FCC Form 175 to determine whether the applicant is eligible for the status requested. Commission staff reviews the information collected on FCC Form 175 for a particular auction as part of the pre-auction process, prior to the auction being held. Staff determines whether each applicant satisfies the Commission's requirements to participate in the auction and, if applicable, is eligible for the status as a particular type of auction participant it requested. Without the information collected on FCC Form 175, the Commission will not be able to determine if an applicant is legally, technically, and financially qualified to participate in a Commission auction, including the forward auction component of the BIA, and has complied with the various applicable regulatory and statutory auction requirements for such participation. The Commission plans to continue to use the FCC Form 175 for all upcoming, non-reverse spectrum auctions, including those required or authorized to be conducted pursuant to the Spectrum Act, collecting only the information necessary for each particular auction.

OMB Control Number: 3060-0995.

Title: Section 1.2105(c), Bidding Application and Certification Procedures; Sections 1.2105(c) and 1.2205, Prohibition of Certain Communications.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents and Responses: 10 respondents and 10 responses.

Estimated Time Per Response: 1.5 hours to 2 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this currently approved information collection is contained in sections 154(i) and 309(j) of the Communications Act, as amended, 47 USC 4(i), 309(j)(5), and section 1.2105(c) of the Commission's rules, 47 CFR 1.2105(c). Statutory authority for the revised information collection is contained in sections 154(i), 309(j), and 1452(a)(3) of the Communications Act, as amended, 47 USC 4(i), 309(j)(5), 1452(a)(3), and sections 1.2105(c) and 1.2205 of the Commission's rules, 47 CFR 1.2105(c), 1.2205.

Estimated Total Annual Burden: 50 hours.

Total Annual Costs: \$9,000.

Nature and Extent of Confidentiality: The Commission will take all reasonable steps to protect the confidentiality of all Commission-held data of a reverse auction applicant consistent with the confidentiality requirements of the Spectrum Act and the Commission's rules. See 47 USC 1452(a)(3); 47 CFR 1.2206. In addition, to the extent necessary, a full power or Class A television broadcast licensee may request confidential treatment of any report of a prohibited communication submitted to the Commission that is not already being treated as confidential pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459. Forward auction applicants are entitled to request confidentiality in accordance with section 0.459 of the Commission's rules, 47 CFR 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: A request for extension of this information collection (no change in requirements) will be submitted to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three year clearance from OMB. On February 22, 2012, the President signed the Spectrum Act, which, among other things, authorized the Commission to conduct incentive auctions, and directed that the Commission use this innovative tool for an incentive auction of broadcast television spectrum to help meet the Nation's growing spectrum needs. See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96,

sections 6402, 6403, 125 Stat. 156 (2012) (Spectrum Act), codified at 47 USC sections 309(j)(8)(G), 1452. The Commission's broadcast incentive auction (BIA) will have three main components: (1) a reverse auction in which broadcast television licensees will submit bids to voluntarily relinquish their spectrum usage rights in exchange for defined shares of proceeds from the forward auction; (2) a repacking of the broadcast television bands; and (3) a forward auction of initial licenses for flexible use of the newly available spectrum.

The Commission is revising the currently approved information collection to implement new collection requirements resulting from the Commission's adoption of new and modified rules prohibiting certain communications for full power and Class A television broadcast licensees and for applicants seeking to participate in the forward auction component of the BIA and requiring such covered parties to file a report with the Commission within a specified period of time if they make or receive a prohibited communication. Subject to certain exceptions, section 1.2205(b) of the Commission's rules provides that, beginning on the deadline for submitting applications to participate in the reverse auction and until the results of the incentive auction are announced by public notice, all full power and Class A broadcast television licensees are prohibited from communicating directly or indirectly any incentive auction applicant's bids or bidding strategies to any other full power or Class A broadcast television licensee or to any forward auction applicant. Section 1.2205(c) requires any party that makes or receives a prohibited communication to report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. Section 1.2205(d) provides the procedures for filing any reports required under section 1.2205(c). Subject to certain exceptions, forward auction applicants in the BIA are subject to a BIA-specific provision in section 1.2105(c) of the Commission's rules (in addition to the Commission's existing prohibited communications rule applicable to applicants in traditional Commission auctions), which provides that, beginning on the deadline for submitting applications to participate in the forward auction and until the results of the incentive auction have been announced by public notice, all

forward auction applicants are prohibited from communicating directly or indirectly any incentive auction applicant's bids or bidding strategies to any full power or Class A broadcast television licensee. Section 1.2105(c) requires forward applicants that make or receive a prohibited communications that is prohibited under section 1.2105(c) to file a report of such a communication with the Commission.

The Commission's rules prohibiting certain communications in Commission auctions are designed to reinforce existing antitrust laws, facilitate detection of collusive conduct, and deter anticompetitive behavior, without being so strict as to discourage pro-competitive arrangements between auction participants. They also help assure participants that the auction process will be fair and objective, and not subject to collusion. The information collected through the Commission's existing reporting requirement under section 1.2105(c) allows the Commission to enforce the prohibition on forward auction applicants by making clear the responsibility of parties who receive information that potentially violates the rules to promptly report to the Commission, thereby enhancing the competitiveness and fairness of its spectrum auctions. The revised information collection under the BIA-specific rule in section 1.2105(c) and in sections 1.2205(c) and 1.2205(d) will likewise help the Commission enforce the prohibition on covered parties in the BIA, further assuring incentive auction participants that the auction process will be fair and competitive. The prohibited communication reporting requirement required of covered parties will enable the Commission to ensure that no bidder gains an unfair advantage over other bidders in its auctions and thus enhances the competitiveness and fairness of Commission's auctions. The information collected will be reviewed and, if warranted, referred to the Commission's Enforcement Bureau for possible investigation and administrative action. The Commission may also refer allegations of anticompetitive auction conduct to the Department of Justice for investigation.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Office of the Secretary.

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